IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION.

WRIT PETITION NO. 3532 OF 2006.

M/s Suruchi Food Products. .. Petitioner.
V/s.
The Commissioner, Central
Excise & ors. ... Respondents.

Mr. N. R. Babna for the petitioner.
Mr.A.S. Rao for the respondents.

CORAM : V.C.DAGA & J.P.DEVADHAR,JJ.
DATED : 28. 6 .2006.

P.C. :

. Heard learned Counsel for the petitioner.

Perused petition.

2. This petition is directed against the order dated 20.9.2005; whereby the application for modification came to be dismissed and time for pre-deposit came to be extended upto 30.9.2005. The compliance of the said order was to be reported on 6.10.2005.

3. The petitioner consumed aforesaid period without making any complaint against the said order. It allowed the time to lapse, did not comply with the order of pre-deposit and, ultimately, allowed the appeal to be dismissed which came to be dismissed on 6.10.2005

4. Being aggrieved by the aforesaid 2 orders;

one dated 20.9.2005 and another dated 6.10.2005, the present petition has been filed.

5. At the outset, we must place it on record that the substantive order dated 16.8.2005 directing deposit of entire duty liability is not a subject matter of challenge in this petition, which the petitioner ought to have challenged. What is challenged is the consequential orders. Thus, the petition itself is defective; apart from the fact that the challenges set up in the petition to the impugned orders dated 20.9.2005 and 6.10.2005 are without any substance. There is no merit in the petition.

6. In order to find solution to the larger problem emerging from dismissal of the appeal and test the bonafides of the petitioner, we asked learned Counsel for the petitioner; whether petitioner is ready to comply with the earlier order dated 16.8.2005, directing pre-deposit. The answer came in the negative.

7. In the above view of the matter, this is not a fit case for exercise of writ jurisdiction. No fault can be found with the impugned orders. The view taken is a reasonable and possible view. Petition is, thus, dismissed in limine with no order as to costs.